



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[Docket Number USCG-2022-0313]

RIN 1625-AA00

Safety Zone; Vito Floating Production System, Outer Continental Shelf Facility, Mississippi Canyon Block 939, Gulf of Mexico

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone around the Vito Floating Production System (FPS), located in Mississippi Canyon Block 939 on the Outer Continental Shelf (OCS) in the Gulf of Mexico. The purpose of this rule is to protect the facility from all vessel traffic operating outside the normal shipping channels and fairways that are not providing service to or working with the facility. Establishing a safety zone around the facility will significantly reduce the threat of allisions, collisions, security breaches, oil spills, releases of natural gas, and thereby protect the safety of life, property, and the environment.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG- 2022-0313 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FPS	Floating Production System
FR	<i>Federal Register</i>
NPRM	Notice of proposed rulemaking
OCS	Outer Continental Shelf
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

Shell Oil requested that the Coast Guard establish a safety zone around its facility. There are safety concerns for both the personnel aboard the facility and the environment that arise when a safety zone is not established. In response, on October 23, 2022, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Vito Floating Production System, Outer Continental Shelf Facility, Mississippi Canyon Block 939, Gulf of Mexico. There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this safety zone. During this comment period that ended on November 23, 2022, we received 2 comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 14 U.S.C. 85, 43 U.S.C. 1333, Department of Homeland Security Delegation No. 0170.1, and 33 CFR 1.05-1, 147.1, and 147.10, which collectively permit the establishment of safety zones for facilities located on the OCS for the purpose of protecting life and property on the facilities, and the marine environment in the safety zones. The Coast Guard has determined that a safety zone is necessary to protect the facility from all vessels operating outside the normal shipping channels and fairways that are not providing services to or working with the facility. Navigation in the vicinity of the safety zone consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of

fairways. The purpose of the rule is to significantly reduce the threat of allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment.

IV. Discussion of Comments, Changes and the Rule

As noted above, we received 2 comments on our NPRM published on November 23, 2022. The first commenter was wholly in support of the establishment of a safety zone. The second commenter asked to specify the horizontal datum (NAD 27, NAD 83, etc.) for the latitude and longitude position in the rule. We have done so. In this rule, as in all OCS Safety Zone rules, we use the NAD 83 horizontal datum.

This rule established a safety zone on the Outer Continental Shelf (OCS) in the deepwater area of the Gulf of Mexico at Mississippi Canyon 939. The area or the safety zone is 500 meters (1640.4 feet) from each point on the facility, which is located 28° 01' 32.325" N., 89° 12' 33.254" W. (NAD 83). The deepwater area is waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. No vessel, except those attending the facility, or those less than 100 feet in length and not engaged in towing will be permitted to enter the safety zone without obtaining permission from Commander, Eighth Coast Guard District or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking, and we considered the First Amendment rights of protestors. Below we summarize our analyses based on a number of these statutes or executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the location of the Vito FPS, on the OCS, and its distance from both land and safety fairways. Vessels traversing waters near the safety zone will be able to safely travel around the zone using alternate routes. Exceptions to this rule include vessels measuring less than 100 feet in length overall and not engaged in towing. The Eighth Coast Guard District Commander, or a designated representative, will consider requests to transit through the safety zone on a case-by-case basis.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have

determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a safety zone around an offshore deepwater facility. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2-1 of Commandant Instruction M16475.ID. A preliminary

environmental analysis checklist and Categorical Exclusion Determination, prepared and signed before October 31, 2022 are available in the docket where indicated under ADDRESSES.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 147 as follows:

PART 147-SAFETY ZONES

1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 544; 43 U.S.C. 1333; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 00170.1.

2. Add § 147.879 to read as follows:

§ 147.879 Safety Zone; Vito Floating Production System, Outer Continental Shelf Facility, Mississippi Canyon Block 939, Gulf of Mexico

(a) *Description.* The Vito FPS is in the deepwater area of the Gulf of Mexico at Mississippi Canyon Block 939. The facility is located at 28° 01' 32.325"N., 89° 12' 33.254"W., (NAD 83) and the area within 500 meters (1640.4 feet) from each point on the facility structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except for the following:

- (1) An attending vessel, as defined in 147.20;
- (2) A vessel under 100 feet in length overall not engaged in towing; or
- (3) A vessel authorized by the Commander, Eighth Coast Guard District or a designated representative.

(c) *Requests for permission.* Persons or vessels requiring authorization to enter the safety zone must request permission from the Commander, Eighth Coast Guard District or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Commander or designated representative.

Richard Timme,
RADM, U.S. Coast Guard,
Commander, Coast Guard District Eight

[FR Doc. 2023-07589 Filed: 4/10/2023 8:45 am; Publication Date: 4/11/2023]